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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,802	07/27/2001	John Haig Marsh	P-6251 (301446-000019)	2109

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08/12/2003

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EXAMINER

DAVIE, JAMES W

ART UNIT

PAPER NUMBER

2828

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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09916802

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

11

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

James W Davie
Primary Examiner
Art Unit: 2828

DETAILED ACTION

Response to Amendment

1. The reply filed on 5/15/03 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the amendment cancels all claims drawn to the invention constructively elected by original presentation. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Election/Restrictions

2. Newly submitted claims 31-40 and 2-21 and 27-30 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-21 and 27-30, drawn to QWI device, classified in class 372, subclass 45.
- II. Claims 31-40 and 2-21 and 27-30, drawn to a laser having a current injection means, classified in class 372, subclass 46.

The inventions are distinct, each from the other because of the following reasons:

4. Inventions of Group I and Group II are related as subcombination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the subcombination as claimed in Group I does not require the particulars of the

subcombination of Group II as claimed for patentability, and (2) that the subcombinations have utility each by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the subcombination I as claimed does not require the particulars of the subcombination II as claimed because claims I and 31 are evidence claims showing that the QWI device does not require the injection means and that. The subcombinations have separate utility such as laser devices which operate without the specific structure of the two distinct subcombinations.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 31-40 and 2-21 and 27-30 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

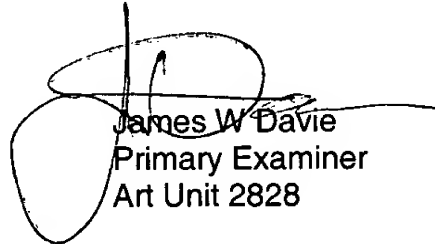
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W Davie whose telephone number is (703) 308-4847. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7724 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



James W. Davie
Primary Examiner
Art Unit 2828

jd
August 11, 2003